

Town of Nolensville
Board of Mayor and Aldermen Meeting
Date: June 7, 2007, Time 7:00 p.m.
Nolensville Elementary School

Mayor Beth Lothers opened the meeting at 7:05 p.m. Members present were Mayor Lothers, Aldermen Jimmy Alexander, Tommy Dugger, and Ken Thomas. Alderman Joe Curtsinger was absent. Staff present: Counsel Robert Notestine, Town Planner Henry Laird, and Recorder Cindy Lancaster. There were 26 citizens present.

Prayer and pledge was led by Pastor Sandy Shawhan with Nolensville United Methodist Church.

Citizens Input:

Mrs. Betty Friedlander, 240 Norfolk Lane, reminded the board of the upcoming Williamson County Fair. She stated that catalogs have been mailed, with flyers to be sent in the near future. She noted that catalogs are for citizens that wish to participate in the various booths. She informed the audience if they would like to volunteer to please contact her. She stated that the Fair begins on August 3.

Alderman Dugger made a motion to approve the minutes from the meeting of May 3, 2007, Alderman Alexander seconded. Mayor Lothers made a motion to amend the minutes. She noted on page 5, second paragraph should read "Mayor Lothers indicated that every effort would be made to work out agreements with property owners to avoid condemnation". Alderman Dugger seconded. The minutes were approved unanimously as amended.

Alderman Dugger made a motion to approve the minutes from the Beer Board Meeting on May 24, 2007, Alderman Alexander seconded. The minutes were approved unanimously.

COMMITTEE REPORTS:

Chair Rick Owens reported for the Planning Commission.

- Proposed amendment to the zoning ordinance was deferred
- Performance bond for Phase V, Section II, of Bent Creek was approved
- Pervious ratio for the Historic area was discussed, although deferred

Alderman Ken Thomas reported for the Historic Commission.

- After color selection, Jay Nelson received a Certificate of Appropriateness

Fire Chief Presley Hughes reported for the Nolensville Volunteer Fire Department.

- Reminded a burn ban was in effect for Nolensville
- Engineer class has been completed

- Two members are resigning due to moving, although a new application for volunteer firefighter was received

Henry Laird reported for the Planning Department.

- Various zoning ordinance amendments are being reviewed
- Four phases for various developments have been submitted
- Meeting with project developers are ongoing, but there has been no official submission

Police Chief Paul Rigsby reported for the Police Department.

- Written stats were distributed to the board
- New officer will be sworn in next month
- Mr. Bob Hayes was recognized for his dedicated service and given a plaque

Mr. Bob Hayes reported for the Public Works Department.

- Flags were erected in observance of Memorial Day
- Mowing and trash pick up is ongoing
- Preparing signs for the 4th of July fireworks
- Minor repairs for police cars and maintenance has been performed

Mr. Hayes conveyed to the board if they had any concerns or suggestions to feel free to contact him or John.

Chairwoman Suzie Lindsey reported for the Events Committee

- Free Family Movie Night will be held on the 2nd & 4th Friday night at Nolensville Elementary School
- Concessions will be provided
- Fireworks event activities will begin at 5:00 p.m. on July 4th, with a disc jockey, live bands, games for the children, and fireworks to begin at dark

Mayor Lothers ask that Mrs. Lindsey explain why this committee cannot reveal the movie titles. Mrs. Lindsey stated that in order to have a license with the motion picture which allows the town to show the movie, this license states that you may not reveal the names of the movie, producers, or actors. This is due to viewing the movie for free. This showing cannot compete with movie theaters that charge.

Mayor's Report:

- a. Rocky Fork Realignment update

Mayor Lothers introduced Mr. Bobby Garland with Florence and Hutcheson to update the board on the Rocky Fork realignment.

Mr. Garland stated a number of issues are being experienced in regards to the realignment. He noted that the project is in the floodplain. He stated that soil investigation was performed

throughout the town. Based on the soil analysis two deficiencies were found. He noted that sink holes and soft soils must be addressed. He noted that anytime more than an acre is disturbed, a permit must be obtained through the State. Permits have been applied for through the State. He noted that Mill Creek was investigated and National crayfish were found. Permits must be submitted to the State and this has been performed. He noted that originally it was thought that only water meters would need to be relocated. He stated that it has been determined that water mains must be relocated. He noted that these mains belong to Nolensville/College Grove utility. The specifications have been obtained and these mains will be relocated. Mayor Lothers stated at last month's meeting the town did not know if this work could be performed this summer. She noted that this can be done in the summer months. Mr. Garland noted that a gas line was located also. He stated that Mr. Don Swartz has been in contact with Atmos Energy. He noted that there is a sewer main that runs parallel with Mill Creek and three manholes will have to be built.

Mr. Garland stated that the original design for Nolensville and Clovercroft Road did not line-up sufficiently. He stated that this has been redesigned and at the new intersection there will be a right turn lane, a through lane, and a left turn lane that will line-up with Clovercroft Road. He stated that it is hoped that a contractor can begin in August.

Mr. Garland stated that a cost estimate was handed out to the board. He noted that this price has inflated with various reasons including added work for the soil concerns, and gas and steel price increase. He noted that a contingency item in regards to soft areas has been incorporated. He stated that the estimate in 2006 was approximately \$770,000 it is now one million, two hundred, sixty-seven thousand, nine hundred and sixty dollars.

Alderman Thomas reiterated that the cost increase is mainly due to the increase cost in gas and steel. He asked Mr. Garland if this amount indicates the anticipated increases over the next several months. Mr. Garland stated yes. He noted that Florence and Hutcheson had previous bids and these numbers have been compared.

Alderman Dugger asked where the town is in the process. He noted that the town has invested a lot of money. He asked if the town was willing to spend over one-million dollars, or should it be re-evaluated.

Mayor Lothers noted that a property owner has been approached about an equal property swap to allow the realignment to move forward. She noted the second big issue is the access in to the ball park. She noted at this point there is no additional cost, although, there could be additional costs in regards to accessing the park. She further noted that the board has not approved any construction contract. This document would be brought before the board for their approval. She noted that she is requesting direction from the board.

After some discussion Mayor Lothers asked if it was the consensus of the board that the town needs this road or some form of it in order to handle the additional traffic from the Silver Stream development and Rutherford County. Alderman Dugger asked if it was possible to have a workshop to further discuss the road. He noted that this board has reviewed a Clovercroft intersection before and he recalls there was no room to construct a turn lane. He stated that if there is some other resolution the board can come up with for a little less price

this should be reviewed. Mayor Lothers stated that she could say it will not stay on the current timeframe if this is not resolved as soon as possible.

Alderman Alexander stated that he understood Alderman Dugger's thought in regards to looking at an alternative, but if the town doesn't do the road as currently planned, there could be another increase. He noted that from 2006 to current date it has increased 67%.

Alderman Thomas stated that this may be a "catch twenty-two". He noted that if we wait it could possibly increase. He stated that he doesn't feel the board thought a year ago the cost would have increased 67%.

Mayor Lothers interjected that it is interesting that the board is discussing impact fees tonight with the discussion of the Rocky Fork Road realignment. She noted that it was important that the cost estimates must be up to date for the board to make an informed decision. She noted that the board has discussed having a workshop for the impact fee in a couple of weeks. Should this be discussed during that workshop?

Alderman Alexander stated that he did not think you can look at any other alternative. Although, he stated that it is discouraging to see an increase.

Mayor Lothers stated that although there is not anything on the agenda, there needs to be guidance from this board. She asked Counsel Notestine if she needed authorization to move forward. Counsel stated that she could move forward to obtain information, although there should be a resolution to authorize the initiation of the bid process.

Mr. Garland stated that although his firm could move forward, he would recommend to not advertise for a bid if this board is not comfortable. He noted that this board would be asking contractors to spend quite a bit of time and money on this process. Mayor Lothers asked the board if they would be willing to have a special meeting within two weeks and have a resolution on the agenda. Alderman Alexander recommended that this information be forwarded to Alderman Curtsinger since he is not in attendance tonight. Mayor Lothers agreed and thanked Alderman Alexander.

Mayor Lothers noted that the next scheduled meeting is July 5th. She noted that Williamson County does not meet in July. There was extensive discussion in regards to dates for the meeting, in addition to dates for a workshop. It was agreed that a workshop would be held on June 21st, and the meeting would be scheduled for June 28th. Mr. Mullins stated that he was available on both dates.

Alderman Alexander asked Planner Laird if submittals were turned in to staff and the time limit was exceeded, approved automatically. Mr. Laird stated that is correct, although there is nothing to come before the Board of Mayor, this submittal date has passed.

Mayor Lothers made a motion to have workshop on the 21st of June, with the regular July monthly meeting to be held on June 28th. Alderman Alexander seconded, and this passed unanimously.

b. Other

Mayor Lothers stated that Mrs. Pat Aldred has resigned her position from the town due to her husband's health. Mayor Lothers thanked Mrs. Aldred for her hard work over the past ten years. Mayor Lothers nominated Mr. Ken Norman to the Board of Zoning Appeals, Alderman Alexander seconded, and this nomination was unanimously approved.

Mayor Lothers asked Counsel Notestine to update the board on the current lawsuits. He stated that there have been two lawsuits filed against the town. He noted that one was filed by a previous Police Officer, Charlie Holt. He noted this is in Circuit Court. Counsel stated that the second lawsuit has been filed by Mr. Frank Barrett. He noted this was filed in Federal Court and this is an allegation of civil rights violation.

Second reading of ordinance #07-06, an ordinance to adopt a budget for the Town of Nolensville for fiscal year 2007-2008. Alderman Dugger made a motion to approve the ordinance, Alderman Alexander seconded. Alderman Dugger thanked David Rowland and Carla Ediger for their hard work in the budget process. He distributed an amendment to the board. Alderman Dugger made a motion to amend the budget, stating that sprinkler permits would increase \$26,195. Remove \$15,000 from state street aid appropriation to general fund and change \$36,000 to increase \$45,200 in the fire department. Mayor Lothers seconded. The amendment was approved unanimously. The vote was taken on the ordinance as amended and unanimously approved

Second reading of ordinance #07-01, an ordinance to amend the Zoning Ordinance #04-09, in regards to second and third floor residential units above commercial and office units

Planner Henry Laird explained this ordinance in detail. He noted that he had submitted a memo to the board discussing the amendments. He went over this memo with the board.

Alderman Dugger asked how the town would monitor whether there was a security guard employed. He noted that he understood the concept, although wanted to understand how this would be monitored. Planner Laird stated that they could sign an affidavit. Mayor Lothers stated that it could be made a code issue if there is a complaint. Mr. Laird stated that it must have conditions. Alderman Alexander stated that he felt it would be hard to monitor.

Mr. Bob Haines, Planning Commission member stated that he did not understand why the town would get involved. He did not feel that it is the town's business to dictate who an owner may rent to. He suggested setting a number of occupants and letting the owner handle the remaining issues.

Mayor Lothers noted that there were some residents within that area at the public hearing. They requested that the town review this issue.

Mr. James McCanless, property owner in the Historic area, stated that the board may be flirting with disaster on discrimination.

Alderman Alexander stated that initially in the discussion it was stated that apartments on the second floor should be owner occupied. He stated that he never thought it would be apartments

to be rented to other individuals. He asked if any part of the amendment addresses this. He further stated that he felt it should be owner occupied period.

Mr. Frank Wilson, Nolensville Road, asked if it would be proper to review the City of Franklin's ordinance in regards to this issue. Mr. Laird stated that he had reviewed their ordinance and did not see this addressed.

Alderman Thomas stated that he felt the heart of the matter is to maintain the vision in the Historic District. He noted that his concern is monitoring security guard requirements. He noted that he would like to review more appropriate wording.

Alderman Dugger stated that maybe this should be deferred. He stated that he did not feel the town should get in to monitoring occupants. He noted that should be the landlord's responsibility. Alderman Thomas stated that he thought Lenox Village did a good job on commercial.

Mrs. Lynda Moses, Rock Springs Road stated that there are CPA's and other businesses that do not depend on walk-in customers. She noted that she rented a warehouse and was able to have a smaller store down stairs. She noted that the rent was less on the second floor.

Alderman Alexander made a motion to defer this two meetings, Alderman Dugger seconded, and this was approved unanimously.

First reading of ordinance #07-09 an ordinance to amend the Zoning Ordinance #04-09 in regards to landscaping, lighting, and parking areas.

Planner Laird described this ordinance noting this will grant more authority to the Planning Commission in regards to lighting, landscaping and parking.

Alderman Dugger stated that he felt this in needed. He asked for clarification. He asked if the applicant would come in with the town requirements and then request to the Planning Commission to go below requirements. Mayor Lothers stated that they would ask at the beginning of the process.

Alderman Alexander asked Counsel if there are other municipalities that allow the Planning Commission the authority to grant variances. He asked if this was legal. Counsel Notestine said that he has never seen the Planning Commission grant a zoning variance. Planner Laird stated that the Planning Commission has the authority to adjust parking. Counsel Notestine stated that he feels this would allow the Planning Commission to deal with minor issues. Alderman Alexander stated that he has never seen this practice and would like to check into it further. Mr. Laird stated that he feels that it would work better if some adjustments were made to the wording.

After extensive discussion and noting this is first reading, Mayor Lothers made a motion to approve this ordinance, Alderman Dugger seconded and this passed unanimously.

First reading of ordinance #07-10 an ordinance to amend the Zoning Ordinance #04-09, in regards to the Historic District Overlay.

Mr. Laird explained this ordinance in length and noted this is a recommendation made by the Historic Zoning Commission, in addition to minor changes to perform some housekeeping within this section of the ordinance. Alderman Alexander noted that this was considered by the Planning Commission also.

Mayor Lothers made a motion to approve this ordinance, Alderman Alexander seconded, and this approved unanimously on the first reading.

First reading of ordinance #07-11 an ordinance to amend Title 1, Chapter 1, of the Municipal Code of the Town of Nolensville in regards to fees. Police Chief Paul Rigsby noted that he has checked with other municipalities and this is compatible with their fees. He noted that currently the town does not recover the cost that is involved in copying police reports. He stated this ordinance will off-set those cost. Mayor Lothers made a motion to approve this ordinance, Alderman Thomas seconded, and this was approved unanimously.

First reading of ordinance #07-12 an ordinance to impose impact fees. Mayor Lothers noted that as discussed earlier there will be a workshop to discuss this further. She introduced Mr. Clancy Mullins with Duncan and Associates from Dallas, Texas. He then began a presentation for the board. He noted that he would be demonstrating the highlights of the study and if the board had any questions to feel free to stop him. Mr. Mullins noted that approximately ten studies have been performed by Duncan & Associates within the State of Tennessee. He stated that since this is a fee and not a tax it must be proportional to the need to provide benefit. He noted that a city cannot charge twice for the same level of service.

Mr. Mullins described the plan noting the improvement costs. He stated that the town should give credit for existing deficiencies. He noted that improvements that are not adding significant additions are not included. He stated that these cost were calculated in the distributed planned improvement costs. Mr. Mullins noted that the total cost of the Nolensville Road is approximately 26 million dollars.

Mr. Mullins stated that currently \$2,400 is a United States average of an impact fee. He noted that a single family resident would be \$3,009 for Nolensville. He stated that this fee can be phased in gradually. He noted that the ordinance allows a 90-day grace period after final reading to implement. He stated that the town could take various approaches to implement this fee. He gave an example that the town could allow it to be effective 50% the first year. He noted that this ordinance states that the fee is collected at the time the building permit is obtained.

Mr. Mullins reiterated that this ordinance would go into effect 90 days after adoption and would be reduced in subdivisions with prior improvements. He stated that reimbursements for future improvements could be reviewed. Mr. Mullins noted that there are refund provisions if the fee is not spent in seven years. He noted this would have annual adjustment and a comprehensive update would be performed every three years.

Counsel Notestine stated that this is a very well drafted ordinance. He asked Mr. Mullins who the “administer” would be. He noted this is not specified in this ordinance. Mr. Mullins stated that this would be a designated staff member.

Alderman Alexander commended Mr. Mullins on the presentation. Alderman Dugger agreed, noting that he is in agreement that new development should pay its way. He stated that he doesn’t know how the town will implement this. He stated that he felt it should be effective upon passage and not after 90 days. He stated that he felt staff would be flooded with building permits. Alderman Dugger further noted that the town is currently looking at approximately \$30,000 in tap fees and permits. He noted that the town is in competition with the county.

Alderman Alexander agreed with Alderman Dugger. He asked if developments are already approved would they be charged. Planner Laird stated that they would be charged, although they may obtain a reduction. He stated that it is dependent upon what the developer has previously committed.

Mayor Lothers stated as a new Mayor involved in the budget process the board has to have a clear understanding of what impact fees and adequate facilities tax can be used for. She noted that they cannot be used for staff salaries and other operational cost associated with growth that must be covered by the general fund. She noted that this fee assists in paying for road improvements to adequately provide for infrastructure.

Alderman Dugger asked the board their feelings on the 90-day implementation. Alderman Thomas stated that he felt there would be a flood of building permits being requested by the builders to avoid this fee. Alderman Alexander stated that they must have a project approved. Mr. Laird stated that there are plenty of lots approved. Alderman Dugger stated that a builder will pull ten permits versus one. Mayor Lothers asked for Mr. Mullin’s opinion in regards to this concern. Mr. Mullins stated that builders will pull more permits prior to the initiation of the fee. He stated that he doesn’t know how huge that number would be, although he feels there would be an increase. Mr. Mullins noted that his firm has performed numerous studies in the State of Florida. State law in Florida mandates a 90 day threshold.

Mayor Lothers made a motion to approve this ordinance, Alderman Alexander seconded, and this ordinance passed unanimously on first reading.

Other:

Alderman Dugger inquired if staff could review annexing Silver Stream, whether it is friendly or unfriendly. He noted that he felt they should pay their fair share of the Rocky Fork realignment. Alderman Alexander stated that he agreed. Counsel Notestine stated that if it is a friendly annexation it would be easier. He suggested that someone may want to contact the developer. Alderman Dugger asked the Chief if his department responded to calls in that subdivision. Chief Rigsby stated that they did assist the county with backup. Mayor Lothers asked Vice-Mayor Dugger if he would contact the developer. Alderman Dugger stated that he would contact Mr. Moon who is the developer of the property.

Counsel Notestine suggested that a meeting could be held with the property owners in order to educate them on an annexation.

The meeting adjourned at 9:26 p.m.

Respectfully submitted,

Approved,

Cindy Lancaster
Town Recorder

Beth Lothers
Mayor